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BALTIMORE-NIGHT BOX  
2021 MAY 21 PM 11:50  
U.S. BANKRUPTCY COURT  
DISTRICT OF MARYLAND

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
NORTHERN DIVISION

VERONICA W. OGUNSULA,

Plaintiff,

vs.

MARYLAND STATE POLICE,  
TFC MICHAEL WARRENFELTZ  
15 TURNPIKE DRIVE  
PERRYVILLE, MD 21903  
*Individual and Official Capacity*

COLONEL WOODROW W. JONES III  
SUPERINTENDENT,  
MARYLAND STATE POLICE  
1201 REISTERSTOWN ROAD  
PIKESVILLE, MARYLAND 21208  
*Official capacity*

MICHAEL CAPASSO  
WARDEN  
HARFORD COUNTY DETENTION CENTER  
1030 ROCK SPRING ROAD  
BEL AIR, MARYLAND 21014  
*Official capacity*

Defendants

Case No.: 1:20-cv-02568-ELH

OGUNSULA VS MARYLAND STATE POLICE

FILED  
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MAY 21 2021  
AT BALTIMORE  
CLERK U.S. DISTRICT COURT  
DISTRICT OF MARYLAND  
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**MEMORANDUM**

This memorandum by the plaintiff is filed in opposition to the Defendant Warden Michael Capasso's Memorandum of Law in support of their Motion to Dismiss or in the Alternative,

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1 Motion for Summary Judgment. There is a genuine dispute of material fact with regard to the  
2 facts averred by the defendant. Further, the plaintiff is filing subsequent to this response a  
3 Motion for Leave to amend her complaint to include the unnamed correctional officers.  
4

5 **SUMMARY**

6 To support her 42 U.S.C. §1983 complaint/case against the above named defendant,  
7 Warden Capasso and unnamed correctional officers, for violations of federal constitutional  
8 rights, namely the 4<sup>th</sup> and 14<sup>th</sup> Amendments, the plaintiff states that the defendant she arrived at  
9 the Detention Center on or about 12:30 p.m. on August 30, 2017. She was held in a cell and not  
10 allowed to make a phone call until 8-9 hours later. She had not been read her rights nor was she  
11 aware of the specifics of the warrant or any charges against her until nearly 12 hours after being  
12 brought to the detention center. So then, the plaintiff disputes the time of incarceration stated in  
13 Exhibit 3.  
14  
15

16 Further, after the court hearing where the judge granted her bail on 8/31/2017, she was  
17 told by the unnamed correctional officers on 9/1/2020 that she had not been granted bail and that  
18 she could be detained for up to 90 days. She requested to be taken back to the court on Friday  
19 morning, 9/1 to file a motion. (Please note that the complaint states 9/2 as the date. This is a  
20 typo.) She was told that she had to talk to her lawyer. She told the correctional officer that she  
21 was representing herself at this point. She was then kept confined to her cell for more than 18  
22 hours straight between the afternoon of 9/1 and 9/2. She was promised by the medical staff that  
23 upon entry to the facility she could have her blood pressure checked twice a day, morning and  
24 night because she had recently received a high blood pressure diagnosis. However, although she  
25 requested this after been committed to Harford Detention Center, this health check/service was  
26 not followed.  
27  
28



1 Based on the disposition of the correctional officers, they were intent on continuing her  
2 detention and not complying with the judge's order for her to be released on bail. She was not  
3 provided information regarding the bail process. She was not allowed to make phone calls. She  
4 was kept in her cell for an unspecified amount of time in defiance of the judge's order regarding  
5 bail and release. . This was both emotionally and physically distressing.

6 On 9/1, as shown in the affidavit in Attachment 2, the plaintiff's bail was paid. However,  
7 the plaintiff was not released until after 10 or 11 p.m. on 9/2/20. On information and belief, the  
8 plaintiff was released more than 24 hours after her bail had been posted. She disputes the facts  
9 regarding when the bail was posted as stated in the Exhibit 2 provided by the defendant. This is a  
10 dispute in material fact. Additionally, information provided by the bail bondsman in a  
11 conversation regarding the bail process in Harford County, he stated that Harford does not  
12 restrict the times that bonds can be paid and that there is usually no significant delay between  
13 when they received the bond payment and when they make payment to the court/facility.

14 As previously intimated, the plaintiff was detained up to nine hours before she saw a  
15 commissioner or was able to make a phone call. The first time she saw the commissioner, he did  
16 not have all of the details regarding the charges against her. He told her he would find out more  
17 about the charges. After up to three hours later, she was brought back before the commissioner  
18 and presented information regarding the warrant. The warrant was defective. She told the  
19 commissioner that she had never rented a car at Reagan National Airport as indicated in the  
20 warrant. The Commissioner said that he could not release her and that she would have to go  
21 before a judge the next day. It appears

22 Because she did not want a public defender to represent her or had elected to have a  
23 private attorney should not be a reason to further detain an individual. The arresting officer  
24 should have had the paperwork regarding the warrant when he arrested the plaintiff and brought  
25 her to the detention center.

Complaint Sufficiency

The Fed. R. Civ. P. 8 provides the pleading requirements and was the guidance for the complaint in this case. It states that a complaint must contain a "short and plain statement of the claim showing that the pleader is entitled to relief."

Motion to Dismiss

In compliance with this rule, the complaint stated the following:

The defendants, violated her 4<sup>th</sup> and 14<sup>th</sup> Amendment rights when she was detained on a defective warrant and they continued to detain her after a judge had ordered that she be granted bail and her bail was paid. Further, the institution failed to provide proper care/healthcare given the plaintiff stated health status and the care that she was promised upon entry to the facility.

Fourth Amendment Claim

The 4th Amendment of the U.S. Constitution guarantees a person the right to be secure in their person, house, papers and effects against unreasonable searches and seizures... A traffic stop is a seizure within the meaning of the Fourth Amendment. (Generally Terry v. Ohio, 392 U.S 1, 1968), Johnson vs. Hammett, Civil Action No. ELH-18-1059, D. MD, 12-23-19) In order for a traffic stop to be legal, it requires, that the officer observe a traffic violation. (Connor vs Martin, 882 F. Supp. 2d 820 (2012) The Fourth Amendment's definition does not vary from jurisdiction to jurisdiction. At the time of the traffic stop in question on August 30, 2017, this 4<sup>th</sup> Amendment right was clearly established.

As stated in the complaint, the plaintiff avers that she was not speeding or handling her phone, or committing in any other traffic offense in the State of Maryland and the Trooper did not observe any such violation. The traffic stop was unlawful. The complaint clearly states facts regarding the 4<sup>th</sup> Amendment claim and this is a claim upon which relief can be granted.

Twombly nor Iqbal requires that *evidence* be pled in the complaint or all factual details  
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1 associated with a claim. The pleading standard has been met. A motion to dismiss is not  
2 appropriate.

3 The plaintiff is concerned that the defendants want to avoid discovery in this case  
4 because they believe that the traffic stop was unlawful. A pleading is not the proper place to  
5 present *evidence* as countenanced by the Fed. Rules of Civil Procedure. The goal should not be  
6 for the Court to become the jury. In fact, in considering the motion, “the judge's function is not ...  
7 to weigh the evidence and determine the truth of the matter but to determine whether there is a  
8 genuine issue for trial.” (Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247 S.Ct., 1986)

10 As shown in Attachment 2, the plaintiff's call detail from that time period shows that the  
11 plaintiff was not receiving nor making any calls or texts during the period of time in question.

#### 13 The Fourteenth Amendment

15 The plaintiff's 14th Amendment right to due process is clearly established. The plaintiff  
16 is entitled to relief and recovery of damages because the defective warrant was withdrawn by the  
17 Metropolitan Washington Airport Authority. (See Document 28, Attachment 3) and the charges  
18 were dismissed by the Harford County States' Attorney. (See Document 28, Attachment 3)  
19 (Heck vs Humphrey, 512 U.S. 477, 486-87, 1994; Magwood vs. Robinson, No. 19-6529, 4<sup>th</sup>  
20 Circuit, 2019)

22 Since there are disputed material facts it is inappropriate to grant Summary Judgment.

#### 23 Immunity

24 It's too early to determine whether the defendants should be granted immunity in this  
25 case. Discovery is necessary to determine: policies, quotas, or other incentives encouraged  
26 conduct that created the violation of constitutional rights.

28 A constitutional right is clearly established “when its contours are sufficiently clear that a  
reasonable official would understand that what he is doing violates that right.” The defendants  
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1 bear the burden of proof on whether the constitutional right was clearly established at the time of  
2 the alleged violation. The plaintiff asserts that her 4<sup>th</sup> and 14<sup>th</sup> Amendment constitutional rights  
3 were clearly established.

4 The fugitive charges were dismissed by the Harford District Court. (See Attachment 3)  
5 Again, no traffic citation was issued by the officer. The warrant was withdrawn by the  
6 Metropolitan Washington Police Department (See also Attachment 3)  
7

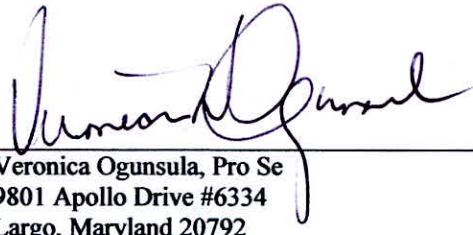
8 Plaintiff's 4<sup>th</sup> and 14<sup>th</sup> Amendment rights were clearly established and no reasonable  
9 person could assume that it is lawful to continue to detain for imprisoned an individual when bail  
10 is paid and the judge had order a release on bail. The 4<sup>th</sup> and 14<sup>th</sup> Amendment rights are clearly  
11 established by a number of sources including the U.S. Constitution, Supreme Court precedent,  
12 Maryland law/statute (Maryland Declaration of Rights--unconstitutional search and seizure).  
13

14 Section 1983 authorizes suit against state actors in their official capacity when the actors  
15 are final policy makers. Warden Michael Capasso can be sued in his official capacity because he  
16 is a final policy maker and if it is shown that his direct policies or unwritten policies within the  
17 organization encourage or acquiescence to behavior exhibited by the unnamed correctional  
18 officer, if this behavior is a pattern or practice, and if training is deficient, he is not entitled to  
19 immunity. Discovery is needed regarding this issue as detailed in the Rule 56 D Motion attached.  
20 Summary judgment is not appropriate pre-discovery.  
21

## 22 23 CONCLUSION

24 For the foregoing reasons, the Defendant's, Warden Michael Capasso and unnamed  
25 correctional officers, Motion To Dismiss and alternatively, Motion for Summary Judgment  
26 should be denied.  
27  
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Dated this 21st of May, 2021.

A handwritten signature in black ink, appearing to read 'Veronica Ogunsula', is written over a horizontal line.

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